



ARIZONA STATE SENATE
Fifty-Third Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1163

release procedures; hearings; bonds

Purpose

Modifies procedures for bail hearings and applicability of bond schedules.

Background

A person in custody may not be admitted to bail if he or she is charged with a felony offense and the court finds there is clear and convincing evidence the person poses a substantial danger to another person or the community or engaged in conduct constituting a violent offense. Also, bail may not be permitted if no condition of release will reasonably assure the safety of another person or the community ([A.R.S. § 13-3961](#)). Additionally, a person may not be admitted to bail if he or she is guilty of a capital offense, sexual assault, sexual conduct with a minor under 15 years old, molestation of a child under 15 years old or a serious felony offense if there is probable cause to believe the person has entered or remained in the U.S. illegally ([A.R.S. § 13-3961](#)).

The conditions of bail are set by a judicial officer with the intent to assure the appearance of the accused, protect against the intimidation of witnesses and protect the safety of the victim, any other person or the community ([A.R.S. § 13-3961](#)).

The Bail Reform Act (Act) of 1984 requires courts to detain people prior to trial who are charged with certain serious felonies. If there is no condition that will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial ([18 U.S.C. § 3142\(e\)](#)).

In 2016, the Chief Justice of the Arizona Supreme Court established the Task Force on Fair Justice for All via administrative order. The order enumerated the Task Force's requirements, including to study and make recommendations related to court-ordered fines, penalties, fees and pretrial release policies. The recommendations included authorizing the court on its own motion, to set a hearing to determine whether a defendant should be held without bail.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Removes the requirement for a state certified motion for a bail hearing, codifying current practice.
2. Stipulates a person may not be admitted to bail if there is *clear and convincing evidence* that no condition of release will reasonably assure the safety of another person or the community.
3. Stipulates if a court initially determines a person may not be admitted to bail, the court must hold a hearing within seven calendar days to determine if statutory requirements are met.
4. Removes continuance requirements related to bail hearings.
5. Allows a person to waive the right to a hearing.
6. Adds filing a complaint does not add to the strength of the proof or the required presumption necessary to deny bail.
7. Stipulates a serious physical injury to a person or violation for driving under the influence are excluded from a bond schedule, requiring a person charged with those offenses to appear before a judge.
8. Makes technical and conforming changes.
9. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Requires a hearing to be held within seven calendar days after an initial appearance, unless a continuance is granted.

Senate Action

JUD 2/2/17 DP 7-0-0

Prepared by Senate Research

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AW/JO/rr